

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6975 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DP JADEJA

Versus

STATE OF GUJARAT

Appearance:

MR DC RAVAL for Petitioners

MR DA BAMBHANIA for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 22/09/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The petitioners who are working in the office of the respondent No.2 in the cadre of Naik Clerk filed this special civil application and prayer has been made by them for direction to the respondents to fix their pay in the pay scale of Rs.975-1660 with effect from 1-1-1986.

3. It is not in dispute that the pay scale of Rs.975-1660 has been fixed of Head Constable Gr. II in S.R.P.F. with effect from 1-1-1986. Under the Revised Pay Scale Rules of 1987 effective from 1-1-1986, the pay scale of Naik Clerk was fixed to be Rs.950-1500 in the office of the respondent No.2. There is another post of Naik which was of lower pay scale earlier to 1-1-1986 and thereafter the pay scale of that post is Rs.775-1025 from 1-1-1986. However, under the notification dated 4th October, 1989, the Naiks were given the pay scale of Rs.975-1660 that is equivalent to the pay scale of Head Constable Gr. II. Though under the notifications annexures 'B' and 'C', the pay scale of Naik prior to 1-1-1986 has been shown to be Rs.200-260 but in the notification aforesaid that pay scale has been shown to be Rs.260-350. From the said notification, it comes out that the pay scale of Lance Naik was of Rs.200-260 which post I do not find above. However, if the grade of Naik is taken to be Rs.260-350 still it was lower than Naik Clerk which was of Rs.260-400. So the grievance of the petitioner's counsel that the Naik Clerks who are part-time have been given the higher pay scale i.e. equivalent to Head Constable Gr. II whereas the Naik Clerk who are full time have been given the lower pay scale.

4. The respondents have not filed any reply to this special civil application and during the course of arguments, the counsel for the respondents is unable to give out any justification for this disparity in the pay scales. However, the learned counsel for the respondents very fairly submitted that in case the petitioners make a representation in this respect then it shall be considered on merits. Adoption of this course, I consider it to be appropriate because what pay scale should be prescribed of a particular post is a matter to be decided by the department first who are the persons best known of the facts of the case.

5. In the result, this special civil application is disposed of with the direction to the petitioners that they may make a representation if they so desire to the respondent No.1 in respect of their grievance made in this special civil application within a period of one month from the date of receipt of certified copy of this order and in case such a representation is made by the petitioners then the respondent No.1 shall decide the same in accordance with law as expeditiously as possible but not later than four months from the date of receipt thereof. In case the claim of the petitioners is not accepted then the respondent No.1 shall pass a reasoned

order and copy of the same may be sent to the petitioners by registered post. In case of difficulty, liberty is given to the petitioners for revival of this special civil application. The special civil application and rule stand disposed of in the aforesaid terms with no order as to costs.

zgs/-